

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ACTICON TECHNOLOGIES, a limited liability company,

Plaintiff,

-v-

HEISEI ELECTRONICS CO., LTD, a foreign corporation; HEISEI USA, LLC, a limited liability company; ADVANCE CREATIVE COMPUTER CORP., a foreign corporation; DTK COMPUTER INC., a corporation; and LyCOM TECHNOLOGY, INC., a foreign corporation,

Defendants.

Case No. 06-CV-4316 (KMK)

ORDER ADOPTING
REPORT & RECOMMENDATION

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KENNETH M. KARAS, District Judge:

On February 9, 2007, this case was referred to Magistrate Judge Mark D. Fox pursuant to 28 U.S.C. § 636(b) for an inquest on the issue of damages following a default by Defendants Advance Creative Computer Corp., DTK Computer, Inc., and LyCOM Technology, Inc.¹ Magistrate Judge Fox reviewed the matter and issued a thorough Report and Recommendation. Defendants were advised of their right to file objections to the Report and Recommendation, but did not file any objections.

A district court reviewing a report and recommendation addressing a dispositive motion “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Donahue v. Global Home Loans & Finance, Inc.*, No. 05 Civ. 836, 2007

¹The case was referred to Magistrate Judge Fox by Judge Colleen McMahon, to whom this case initially was assigned. The case was reassigned to the undersigned on August 6, 2007.

WL 831816, at *1 (S.D.N.Y. Mar.15, 2007) (quoting 28 U.S.C. § 636(b)(1)(C)). Under 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, parties may submit objections to the magistrate judge’s report and recommendation. The objections must be “specific” and “written,” *see* Fed. R. Civ. P. 72(b), and must be made “within 10 days after being served with a copy of the recommended disposition.” *Id.*; *see also* 28 U.S.C. § 636(b)(1).

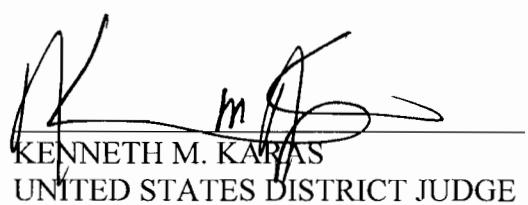
Where a party does not submit an objection, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Donahue*, 2007 WL 831816, at *1 (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). In addition, a party’s failure to submit an objection will waive that party’s right to challenge the report and recommendation on appeal. *See FDIC v. Hillcrest Assocs.*, 66 F.3d 566, 569 (2d Cir. 1995) (“Our rule is that ‘failure to object timely to a magistrate’s report operates as a waiver of any further judicial review of the magistrate’s decision.’”) (quoting *Small v. Sec’y of HHS*, 892 F.2d 15, 16 (2d Cir. 1989)).

As previously noted, Defendants have not filed objections to Magistrate Judge Fox’s Report and Recommendation. Accordingly, the Court has reviewed the Report and Recommendation under the clear error standard. In so doing, the Court finds no clear error and therefore adopts Magistrate Judge Fox’s Report and Recommendation in its entirety.

Accordingly, the Court hereby ADOPTS the Report and Recommendation dated August 1, 2007 in its entirety. The Clerk of the Court is respectfully directed to enter judgment for Plaintiff as recommended by Magistrate Judge Fox, terminate the pending motions (Docket Nos. 18, 21, 23), and close this case.

SO ORDERED.

Dated: February S, 2008
White Plains, New York



KENNETH M. KARAS
UNITED STATES DISTRICT JUDGE

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cc: Magistrate Judge Mark D. Fox